



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #
November 4, 2010

MEMORANDUM

TO: Montgomery County Planning Board

VIA: Mark Pfefferle, Acting Chief, Environmental Planning Division *MP*

FROM: *CB* Candy Bunnag, Planner Coordinator, Environmental Planning Division (301-495-4543)

DATE: October 21, 2010

PLAN NAME: Sandy Spring Friends School

PLAN NUMBER: Forest Conservation Plan Amendment to 12003092A

PLAN TYPE: Forest Conservation Variance Request

REVIEW BASIS: Chapter 22A of the County Code

ZONE: RE-2

LOCATION: 16923 Norwood Road, 3200 feet north of Ednor Road

APPLICANT: Laura Miyoshi, Sandy Springs Friends School

HEARING DATE: November 4, 2010

RECOMMENDATIONS

The Environmental Planning staff has reviewed the forest conservation variance request and recommends the Planning Board approve the variance.

BACKGROUND

The subject site is the 140.5-acre campus of the Sandy Spring Friends School. The campus was consolidated into a single lot through the Planning Board's approval of preliminary plan 120030920 on January 22, 2004. On July 29, 2004 the Planning Board approved an amendment (12003092A) to the preliminary plan to correct a mistake related to Adequate Public Facilities improvements that was imposed in the original approval. The preliminary plan approval included Planning Board approval of a Preliminary Forest Conservation Plan.

In late 2008, the school proposed an amendment to the Forest Conservation Plan to add two houses on the northern portion of the site. That amendment was approved by the Planning Director's

designee because the retained and protected forest did not change from the originally approved Forest Conservation Plan.

With the current amendment, the applicant proposes to dredge the existing onsite pond and to permanently place the dredged materials on the northwestern corner of the site which already has stockpiled soils from previous work on the property. There is a wood pier on the edge of the pond that is proposed to be removed since it is unstable. The school wants to improve the aesthetics and safety of the pond. After the pond is dredged, the pond is proposed to be reshaped, and aquatic plants are proposed to be planted around the pond edge. It should be noted that the pond is used for the school's science classes.

The proposed pond dredging has been reviewed and approved by Montgomery County Department of Permitting Services (DPS). The limits of disturbance for the proposed project will not be within any existing conservation easement areas. Forest retention areas within existing conservation easements would remain the same. As with the original FCP, there would be no forest planting required. Since the proposed FCP amendment does not result in more than 5000 square feet of additional forest clearing, the amendment is considered a minor amendment and may be approved by the Planning Director (Forest Conservation Regulations, COMCOR 22A.00.01.13)

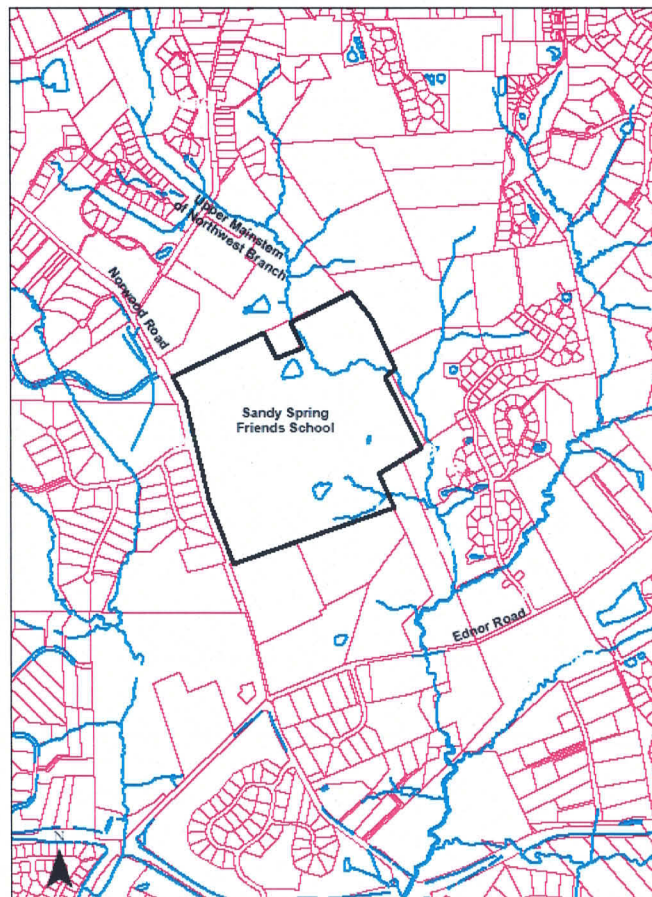


Figure 1: Vicinity Map

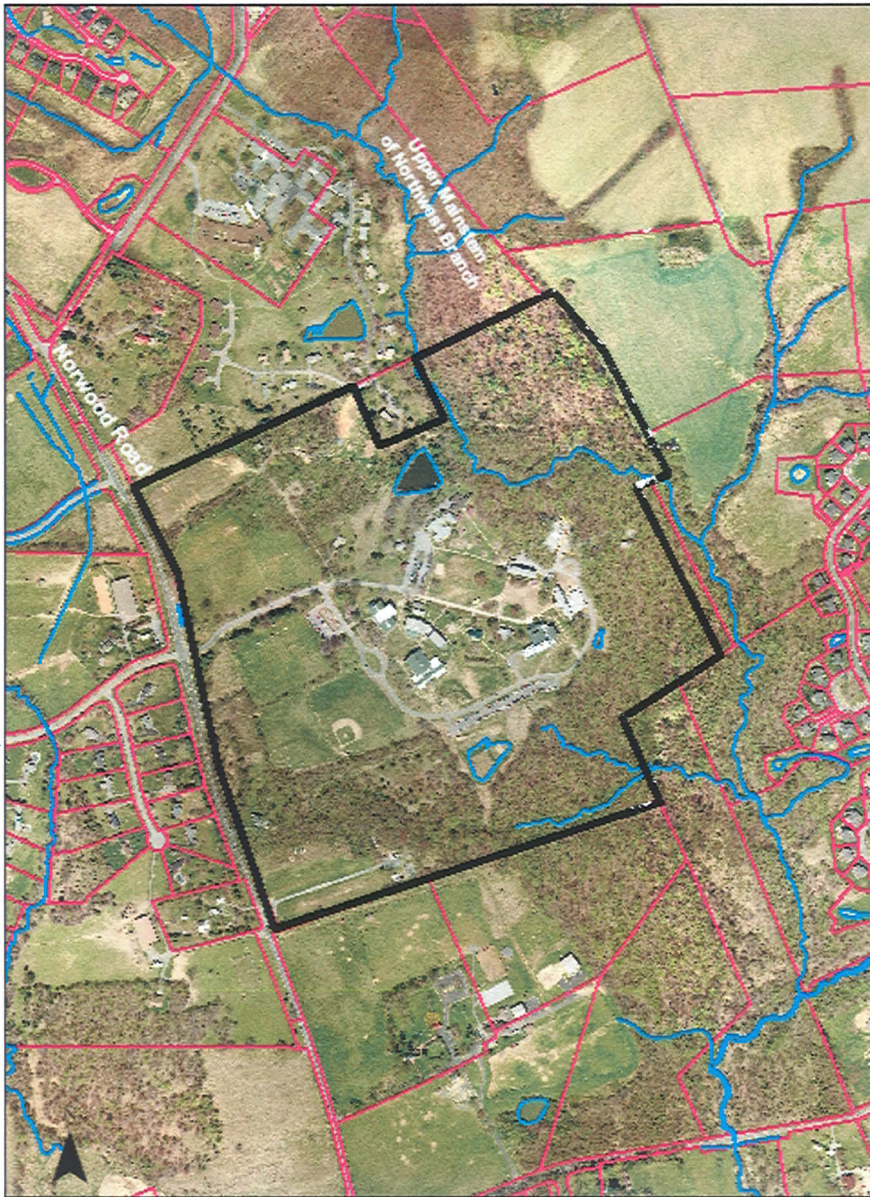


Figure 2: 2008 Aerial View

Since October 1, 2009, Section 1607(c) of the Natural Resources Article, MD Ann. Code went into effect statewide and affects the Montgomery County Forest Conservation law. This section requires an applicant to obtain approval of a variance for the removal or impact of trees 30 inches and greater in diameter at breast height and certain vegetation prior to the forest conservation plan.

Section 22A-21 of the County Code indicates that only the Planning Board has the authority to approve forest conservation variances. Therefore, the Planning Board is only asked to rule on the variance and not the forest conservation plan. Once the variance is approved by the Planning Board the Planning Director, or designee, can act on the forest conservation plan.

VARIANCE REQUIREMENTS

Section 1607(c) of the Natural Resources Article, MD Ann. Code affects the Montgomery County Forest Conservation law by identifying the following trees, shrubs, plants, and specific areas as priority for retention and protection and shall be left in an undisturbed condition unless the applicant qualifies for a variance in accordance. More specifically the vegetation to remain undisturbed includes:

- A. *Trees, shrubs, or plants determined to be rare, threatened, or endangered under:*
 - (1) *The federal Endangered Species Act of 1973,*
 - (2) *The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01—10-2A-09, Annotated Code of Maryland, and*
 - (3) *COMAR 08.03.08;*

- B. *Trees that:*
 - (1) *Are part of an historic site,*
 - (2) *Are associated with an historic structure, or*
 - (3) *Have been designated by the State or the Department as a national, State, or county champion tree; and*

- C. *Any tree having a diameter measured at 4.5 feet above the ground of:*
 - (1) *30 inches or more, or*
 - (2) *75 percent or more of the diameter, measured at 4.5 feet above the ground, of the current State champion tree of that species as designated by the Department of Natural Resources.*

Under Chapter 22A-21 of the County Code a person may request in writing a variance from this Chapter if the person demonstrates that enforcement would result in unwarranted hardship to the person. The applicant for a variance must:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;
- (2) Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;
- (3) Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance; and
- (4) Provide any other information appropriate to support the request.

In Montgomery County before considering the variance the Planning Board must refer a copy of each request to the County Arborist within the Montgomery County Department of Environmental Protection for a written recommendation. The County Arborist must make a recommendation on the variance request to the Planning Board within 30 days from the receipt of the request. If there is

no recommendation from the County Arborist the response is presumed to be favorable.

VARIANCE REQUEST

On September 17, 2010, the applicant submitted a variance request (Attachment A) for proposed impacts to the critical root zones of three trees that are 30 inches and greater in diameter at breast height (DBH). The three onsite trees are #132, 133, and 136. **For each tree, the disturbance to its critical root zone is much less than 33 percent, and is very small. Therefore, the impacts are such that each of these trees can be protected and preserved, if standard tree protection measures are implemented as part of the project**

Trees 30 Inches or Greater That Are Proposed to be Impacted

Tree No.	Common Name	Botanical Name	DBH	CRZ Radius	Location	Percent of CRZ Proposed to be Disturbed
132	Tulip Poplar	<i>Liriodendron tulipifera</i>	36 in.	54 feet	South of pond	5.05%
133	Black Walnut	<i>Juglans nigra</i>	31 in.	46.5 feet	Next to existing gravel road	<0.01%
136	Red Oak	<i>Quercus rubra</i>	46 in.	69 feet	East of existing stockpile area	0.90%

It should be noted that the Ashton Orthodox Meeting House, a designated historic structure is located on the school site. The Sandy Spring/Ashton Master Plan (Table 5, page 78) states that the historic setting for the Meeting House is the building footprint. In addition, as shown in Figure 3, below, the proposed limits of disturbance are not near the historic structure. Therefore, there are no trees associated with the historic structure on the site that will be impacted by the proposed project. For this proposed project, the variance applies to only trees that are 30 inches or greater, DBH.

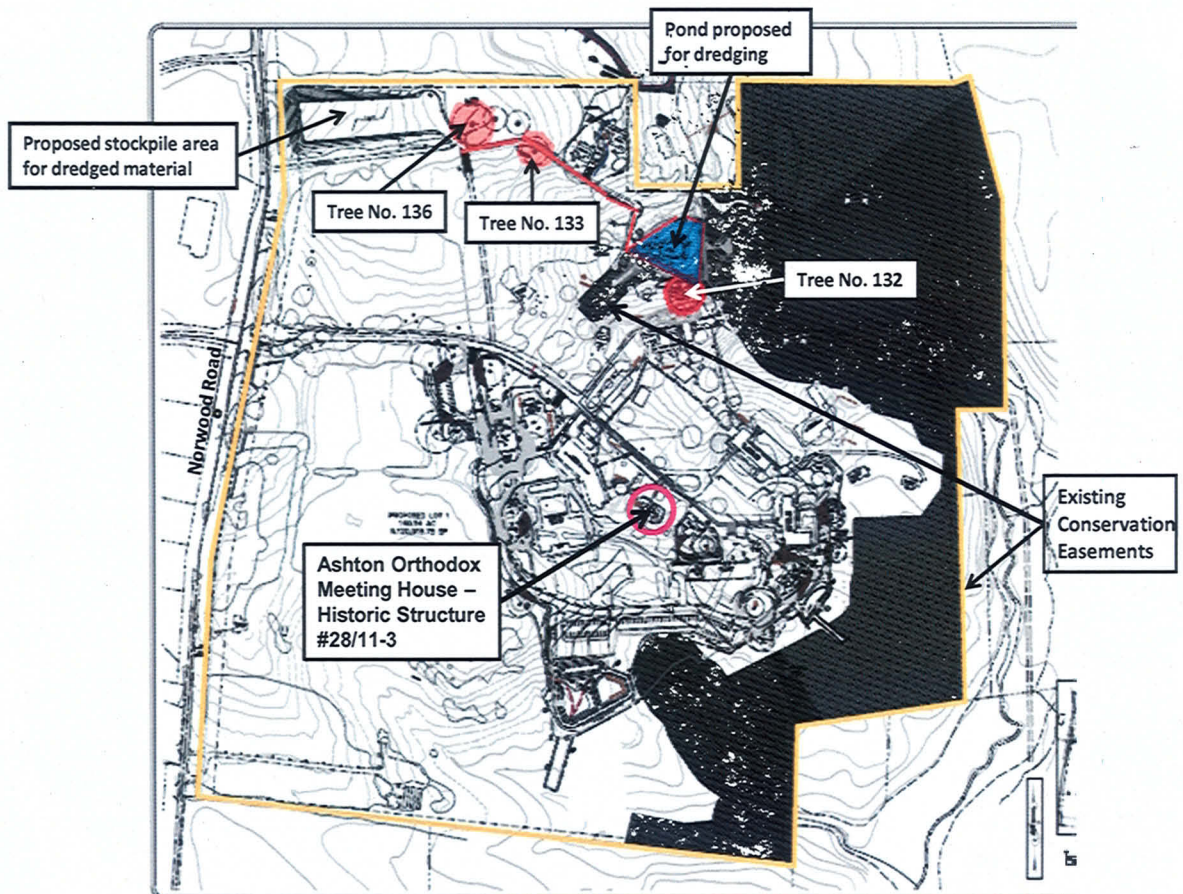


Figure 3: Trees Requiring Variance

The applicant’s September 17, 2010 letter requesting approval of the variance (Attachment A) states:

“In accordance with Section 22A-21(b) of the Forest Conservation Law, the following description of the application requirements:

- (1) *Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The existing pond is only accessible via very limited access points and the travel way was selected because we can use the existing gravel road and we can keep a work zone separate from the school activities. The owner desire to improve the aesthetic and water

quality conditions of the existing onsite pond, in addition, they want to make the pond safer, more attractive, and enjoyable. In order to accomplish these goals, some limited impacts to specimen trees are necessary. In preparation of this plan, the owner was able to design it so it does not require the removal of any specimen trees. However, since the trees described above are impacted (i.e. disturbance to their root zones), they are also considered impacted and must be included in the Variance Request.

- (2) *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;*

Enforcement of these rules would deprive the owner of his right to maintain and improve onsite water resources, in order to create a pond that is safer, more attractive, and enjoyable. In addition, if these rules are enforced the owner would not be able to improve the water quality conditions of the existing pond.

- (3) *Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance;*

State water quality standards will not be avoided and there will not be a measurable degradation in water quality as a result of granting this variance. This is a water oriented project (i.e. pond dredging), and a Stormwater Management (SWM) plan is not required, however a Sediment Control Plan is required. The approved Sediment Control Plan will ensure that water quality standards will be met, and be in accordance with State and County regulations.

- (4) *Provide any other information appropriate to support the request.*

No additional forest clearing is proposed under this Variance Request and Forest Conservation Plan Amendment. All specimen trees will be retained once this project is complete. Of the impacted specimen trees, none are rare, threatened or endangered. The property is not an historic site nor does it contain any historic structures. None of the specimen trees in question are 75% (or more) of the diameter of the current State champion for the subject species.”

It should be noted that the applicant’s letter is incorrect in its statement that the site does not contain any historic structures. As noted earlier in this staff report, the Ashton Orthodox Meeting House is located on the school site. But the historic structure is over 700 feet away from the nearest limits of disturbance for the proposed pond work. There are no trees associated with the onsite historic structure which will be affected by the proposed work.

VARIANCE FINDINGS

The Planning Board must make findings that the applicant has met all requirements of section 22A-21 of the County Code before granting the variance. Staff has made the following determination on the required findings:

1. Will confer on the applicant a special privilege that would be denied to other applicants;

Granting the variance will not confer a special privilege as disturbance of the specimen trees noted above are the minimum necessary in order to dredge the existing pond on school property and to remove the dredged material, as illustrated on the plan provided.

Furthermore, the impacts on certain trees and the need for a variance are often necessary and unavoidable in order to modify existing features on a property for the use and enjoyment of its owner. The specimen tree impacts for this property are for access to and dredging of the pond and to move the dredged material to an existing stockpile area on the site. Access to and from the pond are along an existing gravel road and grass path. There are also impacts associated with removal of an unstable wood pier on the side of the pond.

These activities are reasonable and would be a privilege extended to any applicant in a similar situation. It should be noted that the M-NCPPC Montgomery County Department of Parks occasionally dredges existing ponds on parkland. The reasons for dredging are not always to increase or enhance the stormwater functions of a particular pond. Parks will dredge ponds for purposes of aquatic habitat benefits, recreational value, or aesthetic benefits. For example, Parks is proposing to dredge a pond to deepen it for the purpose of providing fish habitat, at the request of residents. Parks also did a small dredging project at Pine Lake at Wheaton Regional Park to create fish habitat, including a fish nursery area.

The school uses its pond for its science classes. The use of a pond for educational purposes is not an unusual practice. The applicant has indicated that there are algal blooms in the pond that are due to the sediments accumulating in the pond. Such excess algal growth can be detrimental to other pond life, as well as to students who want to explore the pond. Over the last four years, the school has noted a decline in the pond's fish population, which has forced the school to go offsite for the fishing program for its students. The applicant wants to retain its pond to provide a healthy natural habitat for fish and other pond animals and plants (Attachment B).

2. Is based on conditions or circumstances which are the result of the actions by the applicant;

According to school representatives, the onsite pond existed when the school took ownership of the property in 1961. The pond is not a designated stormwater management facility. However, it has collected sediment over the years from upstream stormwater runoff and a stream that flows into the pond. The school has never dredged the pond. Over time, a wet pond, by receiving stormwater runoff from the surrounding land or streamflows, will typically accumulate sediments. Such sediments need to be removed periodically in order to retain a pond habitat, as opposed to allowing the pond to transform into a wetland habitat.

The accumulation of sediments in the pond is not necessarily due to actions of the applicant. Sediment accumulation in a pond occurs through natural conditions, but can be accelerated through man-made actions or activities upstream of the pond. Staff cannot make a determination as to how much of the sediment accumulation of this pond is due to natural conditions and how much is due to past construction and other activities on the site by the school. Therefore, staff cannot conclude that the need to dredge the pond to maintain its habitat is due to actions by the applicant.

3. Is based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is a result of the proposed project to dredge an existing onsite pond and to stockpile the dredged material on the school property. It is not a result of land or building use on a neighboring property.

4. Will violate State water quality standards or cause measurable degradation in water quality.

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being disturbed will not be removed. A sediment and erosion control plan for the proposed work has been approved by Montgomery County Department of Permitting Services.

On August 19, 2010 the County Arborist provided a written statement indicating that she was electing not to review the variance request for the project (Attachment C).

MITIGATION

Staff does not recommend that compensation be required for the proposed impacts to the three specimen trees. The impacts to each of these trees are less than 30 percent of each tree's critical root zone. The impacts are such that each of these trees can be protected and preserved, if standard tree protection measures, as shown on the forest conservation plan amendment, are implemented as part of the project. The impacts are unavoidable, but they will not result in a requirement to remove any of the affected trees. For Tree #133, the impacts to the tree's critical root zone are due to the proposed use of an existing gravel road to access the pond. For Tree #136, about 0.9 percent of its critical root zone will be impacted due to the use of an existing stockpile area to store the dredged pond material. A small area of Tree # 132's critical root zones will have to be impacted due to the proposed removal of the unstable wood pier in the pond.

CONCLUSION

Staff recommends the Planning Board approve the forest conservation variance request.

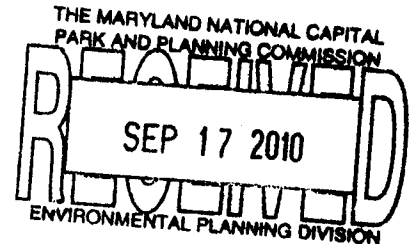


WILLIAMSBURG ENVIRONMENTAL GROUP, INC.

Environmental Consultants

September 17, 2010

Mr. Mark Pfefferle
Acting Division Chief
Forest Conservation Program Manager
Environmental Planning Division
8787 Georgia Avenue
Silver Spring, Maryland 20910
c/o Ms. Candy Bunnag



**Re: Variance Request - Forest Conservation Plan Amendment
Sandy Spring Friends School
16923 Norwood Road
Sandy Spring, MD 20860**

Dear Mr. Pfefferle:

This letter is provided as the Variance Request for a Forest Conservation Plan Amendment submittal. Two copies of the Forest Conservation Plan are attached and the drawings have been folded and collated into sets for your review and comment. A CD is attached with a digital copy of the Variance Request letter and Forest Conservation Plan. Please note that no trees greater than 30" dbh (diameter at breast height) are proposed to be removed under this Variance Request.

Variance Justification

Sandy Spring Friends School, Inc. is the owner of Lot 1, which is comprised of 140.54 acres (6,120,918 square feet) of land, and is currently an educational facility. The property is located at 16923 Norwood Road in Sandy Spring, Maryland, on the east side of Norwood Road, approximately 3,200 feet north of the intersection of Norwood Road and Layhill Road. The proposed Sediment Control Plan includes work for dredging of the existing onsite pond and to spoil the material onsite at the previously utilized stockpile location. In addition, the owner desires to improve the safety of the pond by removing the existing unstable wood pier. No trees greater than 30" dbh will be removed, and access between the pond and the stockpile is provided along the existing gravel road and maintained travel way. There are three specimen trees located within the project area associated with the pond dredging. Per Maryland Senate Bill 666, Sandy Spring Friends School, Inc. is requesting a variance to impact the root zones of the specimen trees listed below. It should be noted that none of these trees will be removed, and that all of the trees are adjacent to an existing gravel roads/travel ways that have been utilized for many years. Also, the stockpile location has been previously utilized and the entrance point has not changed.

The following table identifies the specimen trees greater than 30" dbh that are part of this Variance Request and Forest Conservation Plan Amendment.

Specimen Tree Table 1

Tree Number	Common Name	Botanical Name	D.B.H.	C.R.Z. Radius	C.R.Z. Area	% C.R.Z. Disturbed	Note
132	Tulip Poplar	<i>Lirodendron tulipifera</i>	36 inch	54 feet	9160.88 S.F.	5.05%	Remain
133	Walnut	<i>Juglans nigra</i>	31 inch	46.5 feet	6792.91 S.F.	0.00%	Remain
136	Red Oak	<i>Quercus rubra</i>	46 inch	69 feet	14957.12 S.F.	0.90%	Remain

The owner requests a variance for the disturbance/impact to the above referenced trees.

In accordance with Section 22A-21(b) of the Forest Conservation Law, the following description of the application requirements:

- (1) *Describe the special conditions peculiar to the property which would cause the unwarranted hardship;*

The existing pond is only accessible via very limited access points and the travel way was selected because we can use the existing gravel road and we can keep a work zone separate from the school activities. The owner desire to improve the aesthetic and water quality conditions of the existing onsite pond, in addition, they want to make the pond safer, more attractive, and enjoyable. In order to accomplish these goals, some limited impacts to specimen trees are necessary. In preparation of this plan, the owner was able to design it so it does not require the removal of any specimen trees. However, since the trees described above are impacted (i.e. disturbance to their root zones), they are also considered impacted and must be included in the Variance Request.

- (2) *Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;*

Enforcement of these rules would deprive the owner of his right to maintain and improve onsite water resources, in order to create a pond that is safer, more attractive, and enjoyable. In addition, if these rules are enforced the owner would not be able to improve the water quality conditions of the existing pond.

- (3) *Verify that State water quality standards will not be avoided or that a measurable degradation in water quality will not occur as a result of the granting of the variance;*

State water quality standards will not be avoided and there will not be a measurable degradation in water quality as a result of granting this variance. This is a water oriented project (i.e. pond dredging), and a Stormwater Management (SWM) plan is not required, however a Sediment

Control Plan is required. The approved Sediment Control Plan will ensure that water quality standards will be met, and be in accordance with State and County regulations.

- (4) *Provide any other information appropriate to support the request.*

No additional forest clearing is proposed under this Variance Request and Forest Conservation Plan Amendment. All specimen trees will be retained once this project is complete. Of the impacted specimen trees, none are rare, threatened or endangered. The property is not an historic site nor does it contain any historic structures. None of the specimen trees in question are 75% (or more) of the diameter of the current State champion for the subject species.

In accordance with Section 22A-21(e) of the Forest Conservation Law the following is a description of the minimum criteria necessary for granting a variance.

- (1) *Will confer on the applicant a special privilege that would be denied to other applicants;*

Granting this variance will not confer a special privilege to the applicant as none of the specimen trees noted above are proposed for removal, and is the minimum necessary to develop the property as illustrated in the Forest Conservation Plan Amendment. The pond dredging project covered under the amendment will actually improve water quality and was designed to greatly minimize impacts to existing vegetation. In addition, access across the site is utilizing existing roads/travel ways to the greatest extent practicable, which reduces impacts to vegetation, soils, and root zones.

- (2) *Is based on conditions or circumstances which are the result of the actions by the applicant;*

The requested variance is not based on conditions or circumstances that are the result of actions by the applicant. The variance is based on a desire to improve the aesthetic and water quality conditions of the existing onsite pond, in addition to make the pond safer, attractive, and an enjoyable amenity for the school. The existing unsafe wood pier in the pond will be removed, which is why the critical root zone around tree 132 must temporarily be impacted. Tree 133 is along an existing gravel road/travel way, which will be used to transport dredged material to an onsite stockpile location, and since there is currently a gravel road, no additional disturbances to this tree are proposed. Tree 136 is adjacent to existing gravel road/travel way that provides access to the stockpile location. This stockpile location has been previously utilized and the entrance point has not changed.

- (3) *Arises from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property;*

The requested variance is a result of the desire to improve the aesthetic and water quality of the existing onsite pond, in addition to making the pond safer, attractive, and an enjoyable amenity for the school, and not a result of land or building use on a neighboring property.

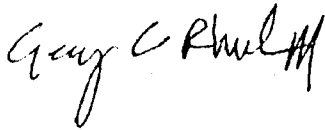
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(4) *Will violate State water quality standards or cause measurable degradation in water quality.*

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. None of the specimen trees listed above are proposed for removal and are not within a stream buffer, wetland area, or special protection area.

Our sincere appreciation to you and your team members for any effort you can make to expedite this variance process. Please feel free to contact me at 703-437-3096 if you have any questions.

Sincerely,



George C. Rhodes III
Office Senior Project Manager

Enclosure



WILLIAMSBURG ENVIRONMENTAL GROUP, INC.

Environmental Consultants

October 18, 2010

Mr. Mark Pfefferle
Acting Division Chief
Forest Conservation Program Manager
Environmental Planning Division
8787 Georgia Avenue
Silver Spring, Maryland 20910
c/o Ms. Candy Bunnag

**Re: Supplemental Information for the Variance Request - Forest Conservation Plan
Amendment
Sandy Spring Friends School
16923 Norwood Road
Sandy Spring, MD 20860**

Dear Mr. Pfefferle:

This letter is provided to describe supplemental information in regards to the September 17, 2010 letter sent to your office regarding the Variance Request for a Forest Conservation Plan Amendment submittal at the Sandy Spring Friends School site. Please note that no trees greater than 30" dbh (diameter at breast height) are proposed to be removed under this Variance Request.

Supplemental Information

Sandy Spring Friends School, Inc. is proposing to restore a degraded and unhealthy pond into a healthy and safe pond, which will require the approval of a variance.

The pond is in a state of degradation and stagnation that has increased each year. The basic problems noted within the pond include invasive species, sedimentation, shallow depth, low dissolved oxygen (DO) levels, algae blooms, and human safety concerns. Invasive species such as *Typha latifolia* (cattail) have increased in their coverage on the pond, and if left untreated will continue to expand into the remaining shallow water areas. Upland erosion is a natural process, and years of runoff into the pond have resulted in the accumulation of sediment and other related pollutants, which has lead to a reduced depth of the pond. A bathymetric study, conducted in 2009, documented overall average water depths of 1.65 feet, with a maximum depth of four feet. These contributing factors have increased algae blooms, and this pond as developed *Anabaena* or blue-green algae. In 2008, low DO levels were documented with results of 1 to 1.25 ppm million. The combination of these factors has lead to an unsafe and unhealthy pond condition.

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The school is based on Quaker theology with a strong focus on stewardship of the environment and a philosophy of protecting the environment. As part of the overall philosophy of the Sandy Spring Friends School, they do not believe in the use of chemicals or aquatic herbicides to eradicate invasive species. The next most effective technique for controlling cattails is complete excavation and removal. Therefore, this project calls for the dredging of the cattail areas and plant removal as part of the pond improvement project.

Sediment and other pollutants, including nutrients, accumulated in the pond have reduced the water depth and pond volume, creating conditions amenable to mosquito reproduction and algae blooms. By dredging the pond to remove the sediment and pollutants, and increasing the depth, the conditions will be less favorable for mosquito reproduction and algae blooms that could pose human health concerns. In addition, the deeper pond will provide better wildlife habitat for fish, birds, macro invertebrates and beneficial insects.

A typical healthy pond would have greater than 6 ppm of DO, whereas the existing pond has levels at 1.25 ppm or less. By increasing the depth of the pond, we will create a condition for natural water column circulation that will help improve the DO levels, and also provide better conditions for the establishment of native vegetation. The higher DO levels will allow fish and macro invertebrates to thrive.

There are the two main types of algae noted at this pond, Filamentous and Anabaena. In general, algae growth is a normal process that only requires sunlight, water, nutrients, and airborne algae spores. To create the filamentous algae, sunlight penetrates through the water column to the bottom of the pond where the algae resides and the algae growth process begins. This pond is so shallow the algae does not stop growing, except during for brief periods of time in the winter. In addition, the added nutrients introduced through runoff, exacerbates the growth. This leads to the mats of algae that are visible on the surface of the pond. The Anabaena, a form of blue-green algae that has been noted at this pond, puts out an exotoxin that is hazardous to people and animals. This is a significant health hazard and a contributing factor to why the school cannot safely allow the students to recreate in the pond.

Beyond environmental hazards, there is an unsafe wooden pier that has deteriorated and must be removed for the safety of the students. This demolition is proposed as part of the pond improvement project. The school has used the pond for recreational purposes, like canoeing, swimming and fishing. In the summer time, the school uses the pond as part of its summer resource program. However, over the last four years, a noted decrease in fish population has forced the school to go off-site for the fishing program.

CONCLUSION

This pond will continue to degrade if no action is taken. The applicant has spent a significant amount of resources on the pond analysis. The pond has invasive species, which if left alone, would continue to expand and cover the pond area. The pond is used as a learning classroom that is part of the school's curriculum and by letting the pond degrade would significantly affect the learning opportunities for the school. Since the school's philosophy is one based on stewardship, this pond restoration project is directly

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linked with the schools theology and mission statement, because if left alone, the pond is not ecologically sustainable.

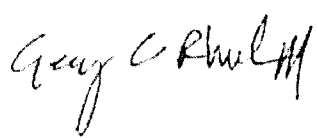
The historical use of the property, followed by school development, has contributed sediments, nutrients, and other pollutants over time to the pond. The pond has reduced water depth and volume, creating conditions amenable to algae bloom. By dredging the pond, we can remove the sediments and pollutants to improve the water quality and make the pond less prone to mosquito reproduction, and algae blooms that pose human health concerns.

The pond is located approximately 50 yards from the Lower School and the safety of the schoolchildren is extremely important. The pond has always been used for learning activities, scientific observations, and recreational purposes. We are not changing how the pond has been used.

The requested variance is not based on conditions or circumstances that are the result of actions of the applicant. The variance is based on maintaining the existing use of the pond, maintaining the necessary educational and scientific curriculum of the school, maintaining the recreational use of the pond in a safe manner, and improving the public health and safety of the pond. The applicant has done a significant amount of work to reduce disturbance and impact to specimen trees, and the applicant is not proposing to remove any specimen trees.

Our sincere appreciation to you and your team members for any effort you can make to expedite this variance process. Please feel free to contact me at 703-437-3096 if you have any questions.

Sincerely,



George C. Rhodes III
Office Senior Project Manager



DEPARTMENT OF ENVIRONMENTAL PROTECTION

Isiah Leggett
County Executive

Robert G. Hoyt
Director

September 28, 2010

Françoise Carrier, Chair
Montgomery County Planning Board
Maryland National Capital Park & Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Great Falls, DAIC 120080200, NRI/FSD applied for on 5/2/2007
Sandy Spring Friends School, DAIC 120030920, NRI/FSD applied for on 2/25/2009
McKenney Hills ES, MR2010720, NRI/FSD applied for on 1/30/2009
Rolling Ridge Phase II, SC2010008, NRI/FSD applied for on 11/10/2008
Anselmo – Revised, DAIC 120100160, NRI/FSD applied for on 8/19/2009

Dear Ms. Carrier:

Based on a review by the Maryland National Capital Park & Planning Commission (MNCPPC), the applications for the above referenced requests are required to comply with Chapter 22A of the Montgomery County Code. As stated in a letter to Royce Hanson from Bob Hoyt, dated October 27, 2009, the County Attorney's Office has advised me that the specific provisions pertaining to significant trees in the State's Forest Conservation Act do not apply to any application that was submitted before October 1, 2009. Since these applications were submitted before this date, I will not provide a recommendation pertaining to the approval of these requests for variances.

If you have any questions, please do not hesitate to contact me directly.

Sincerely,

Laura Miller
County Arborist

cc: Robert Hoyt, Director
Walter Wilson, Associate County Attorney
Mark Pfefferle, Acting Chief